

## REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 22-37 remain pending in the present application. Claims 30-37 have been withdrawn from consideration.

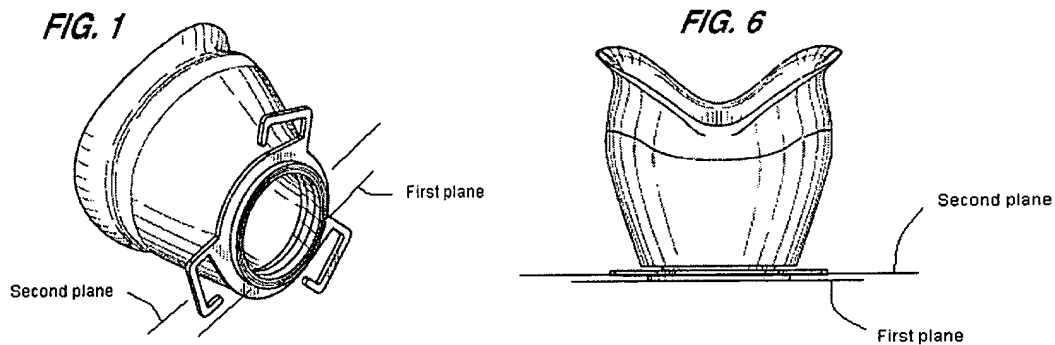
Claims 22, 23, and 25-29 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. Des. 412,745 to Scheu ("the '745 patent") or U.S. Patent No. 5,746,201 to Kidd ("the '201 patent"). In addition, claim 24 stands rejected under 35 U.S.C. § 103 as being unpatentable over the '745 patent or the '201 patent in view of U.S. Patent No. 6,357,441 to Kwok ("the '441 patent"). Applicant respectfully traverses these rejections for the reasons presented below.

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant submits that the '745 patent and the '201 patent fail to teach each and every element recited in amended independent claim 22, nor would it be obvious to modify the teachings of these patent to include the missing elements..

Independent claim 22 recites a patient interface device that includes a collar defined from a relatively rigid material. The collar has an aperture defined in a central portion of the collar, and a plurality of headgear attachment points disposed at a perimeter of the collar. Claim 22 has been amended to clarify that the aperture is defined in a *first plane*, and the headgear attachment points on the collar are defined in a *second plane* and that the *second plane is disposed at a non-zero angle with respect to the first plane*. Applicant submits that the '745 patent does not teach or suggest a patient interface device having each of these features.

Figures 1 and 6 from the '745 patent are provided below for the Examiner's convenience in understanding the distinctions between the presently pending claims and the cited references. In addition, the applicant has taken the liberty of identifying the features on the mask taught by the '745 patent that best correspond to the limitations recited in claim 22.

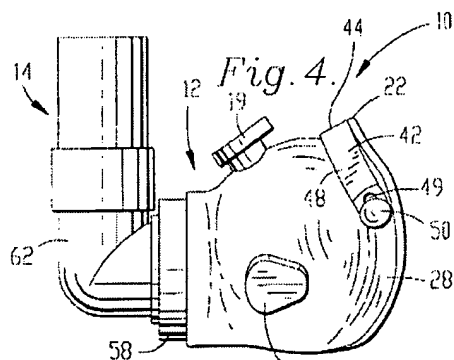
It can be appreciated from reviewing these figures that the first plane, in which the aperture is defined, and the second plane, in which the headgear attachment points are defined, are substantially parallel in the mask taught by the '745 patent. Thus, the angle between the first plane and the second plane is not a non-zero angle, i.e., it is an angle of zero degrees, which is contrary to language recited in claim 22. Thus, the '745 patent does not teach each and every element recited in claim 22 of the present application.



Applicant further submits that one skilled in the art would not be motivated to modify the teachings of the '745 patent so that the first plane and the second plane are at a non-zero angle, because nothing in the cited references teaches or suggests such a modification. Moreover, such a modification may render the mask taught by the '745 patent inoperable, because any such modification may cause the headgear straps that attached to the headgear attachment points to chafe against the sidewall of the seal due to relatively large diameter of the seal and the relatively small diameter of the collar.

According to the Examiner, the '201 patent includes a collar 12 that corresponds to the collar recited in claim 22. See page 3, section 5 of the August 11, 2004 Official Action. Applicant respectfully disagrees. Figure 4 from the '201 patent is copied below for the

Examiner's convenience is understanding the distinctions between the teachings of the '201 patent and the invention recited in claim 22 of the present application.



As noted above, the collar recited in claim 22 is made from a relatively rigid material and has an aperture defined in a central portion thereof. The collar of claim 22 also includes a plurality of headgear attachment points disposed at a perimeter of the collar. Applicant submits that the '201 patent completely omits any teaching or suggestion of such a collar. Despite the Examiner's assertion, applicant submits that item 12 simply does not correspond to the claimed collar. At best, the '201 patent teaches providing headgear attachment points 19 directly on the mask seal, not on a collar. Because the '201 patent lacks any teaching or suggestion of a collar, it also lacks any teaching or suggestion of providing the headgear attachment points on the collar at a non-zero angle with respect to a plane in which the opening to the seal is provided.

For the reasons presented above, applicant respectfully submits that independent claim 22 is not anticipated or rendered obvious by the cited references. In addition, claims 23-29 are also not anticipated or rendered obvious due to their dependency from independent claim 22. Accordingly, applicant respectfully requests that the above rejection of claims 22-29 be withdrawn.

This response is being filed within the three-month statutory response period which expires on November 12, 2004 (November 11, 2001 = Holiday (Veteran's Day)). In addition, no additional claim fees are believed to be required as a result of the above amendments.

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to the claims. Nevertheless, the Commission is authorized to charge the any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 50-0558.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

By Michael W. Haas

Michael W. Haas

Reg. No.: 35,174

Tel. No.: (724) 387-5026

Fax No.: (724) 387-5021

RESPIRONICS, INC.  
1010 Murry Ridge Lane  
Murrysville, PA 15668-8525